

TITLE IX—MOTOR FUELS

SEC. 9101. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Section 211 of the Clean Air Act
(42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as sub-
section (q); and

(2) by inserting after subsection (n) the fol-
lowing:

“(o) RENEWABLE FUEL PROGRAM.—

“(1) DEFINITIONS.—In this section:

“(A) CELLULOSIC BIOMASS ETHANOL.—

The term ‘cellulosic biomass ethanol’ means
ethanol derived from any lignocellulosic or
hemicellulosic matter that is available on a re-
newable or recurring basis, including—

“(i) dedicated energy crops and trees;

“(ii) wood and wood residues;

“(iii) plants;

“(iv) grasses;

“(v) agricultural residues;

“(vi) fibers;

“(vii) animal wastes and other waste
materials; and

“(viii) municipal solid waste.

1 “(B) RENEWABLE FUEL.—

2 “(i) IN GENERAL.—The term ‘renew-
3 able fuel’ means motor vehicle fuel that—

4 “(I)(aa) is produced from grain,
5 starch, oilseeds, or other biomass; or

6 “(bb) is natural gas produced
7 from a biogas source, including a
8 landfill, sewage waste treatment plant,
9 feedlot, or other place where decaying
10 organic material is found; and

11 “(II) is used to replace or reduce
12 the quantity of fossil fuel present in a
13 fuel mixture used to operate a motor
14 vehicle.

15 “(ii) INCLUSION.—The term ‘renew-
16 able fuel’ includes cellulosic biomass eth-
17 anol and biodiesel (as defined in section
18 312(f) of the Energy Policy Act of 1992
19 (42 U.S.C. 13220(f)) and any blending
20 components derived from renewable fuel
21 (provided that only the renewable fuel por-
22 tion of any such blending component shall
23 be considered part of the applicable volume
24 under the renewable fuel program estab-
25 lished by this subsection).

1 “(C) SMALL REFINERY.—The term ‘small
2 refinery’ means a refinery for which average ag-
3 gregate daily crude oil throughput for the cal-
4 endar year (as determined by dividing the ag-
5 gregate throughput for the calendar year by the
6 number of days in the calendar year) does not
7 exceed 75,000 barrels.

8 “(2) RENEWABLE FUEL PROGRAM.—

9 “(A) IN GENERAL.—Not later than 1 year
10 from enactment of this provision, the Adminis-
11 trator shall promulgate regulations ensuring
12 that gasoline sold or dispensed to consumers in
13 the contiguous United States, on an annual av-
14 erage basis, contains the applicable volume of
15 renewable fuel as specified in subparagraph
16 (B). Regardless of the date of promulgation,
17 such regulations shall contain compliance provi-
18 sions for refiners, blenders, and importers, as
19 appropriate, to ensure that the requirements of
20 this section are met, but shall not restrict where
21 renewables can be used, or impose any per-gal-
22 lon obligation for the use of renewables. If the
23 Administrator does not promulgate such regula-
24 tions, the applicable percentage, on a volume

1 percentage of gasoline basis, shall be 1.62 in
2 2005.

3 “(B) APPLICABLE VOLUME.—

4 “(i) CALENDAR YEARS 2005 THROUGH
5 2015.—For the purpose of subparagraph
6 (A), the applicable volume for any of cal-
7 endar years 2005 through 2015 shall be
8 determined in accordance with the fol-
9 lowing table:

Applicable volume of renewable fuel

“Calendar year:	(In billions of gallons)
2005	2.7
2006	2.7
2007	2.9
2008	2.9
2009	3.4
2010	3.4
2011	3.4
2012	4.2
2013	4.2
2014	4.2
2015	5.0.

10 “(ii) CALENDAR YEAR 2016 AND
11 THEREAFTER.—For the purpose of sub-
12 paragraph (A), the applicable volume for
13 calendar year 2016 and each calendar year
14 thereafter shall be equal to the product ob-
15 tained by multiplying—

16 “(I) the number of gallons of
17 gasoline that the Administrator esti-
18 mates will be sold or introduced into
19 commerce in the calendar year; and

1 “(II) the ratio that—

2 “(aa) 5.0 billion gallons of
3 renewable fuels; bears to

4 “(bb) the number of gallons
5 of gasoline sold or introduced
6 into commerce in calendar year
7 2015.

8 “(3) APPLICABLE PERCENTAGES.—Not later
9 than October 31 of each calendar year after 2002,
10 the Administrator of the Energy Information Ad-
11 ministration shall provide the Administrator an esti-
12 mate of the volumes of gasoline sales in the United
13 States for the coming calendar year. Based on such
14 estimates, the Administrator shall, by November 30
15 of each calendar year after 2003, determine and
16 publish in the Federal Register, the renewable fuel
17 obligation, on a volume percentage of gasoline basis,
18 applicable to refiners, blenders, and importers, as
19 appropriate, for the coming calendar year, to ensure
20 that the requirements of paragraph (2) are met. For
21 each calendar year, the Administrator shall establish
22 a single applicable percentage that applies to all par-
23 ties, and make provision to avoid redundant obliga-
24 tions. In determining the applicable percentages, the
25 Administrator shall make adjustments to account for

1 the use of renewable fuels by exempt small refineries
2 during the previous year.

3 “(4) CELLULOSIC BIOMASS ETHANOL.—For the
4 purpose of paragraph (2), 1 gallon of cellulosic bio-
5 mass ethanol shall be considered to be the equivalent
6 of 1.5 gallon of renewable fuel.

7 “(5) CREDIT PROGRAM.—

8 “(A) IN GENERAL.—The regulations pro-
9 mulgated to carry out this subsection shall pro-
10 vide for the generation of an appropriate
11 amount of credits by any person that refines,
12 blends, or imports gasoline that contains a
13 quantity of renewable fuel that is greater than
14 the quantity required under paragraph (2).
15 Such regulations shall provide for the genera-
16 tion of an appropriate amount of credits for
17 biodiesel fuel. If a small refinery notifies the
18 Administrator that it waives the exemption pro-
19 vided by this Act, the regulations shall provide
20 for the generation of credits by the small refin-
21 ery beginning in the year following such notifi-
22 cation.

23 “(B) USE OF CREDITS.—A person that
24 generates credits under subparagraph (A) may
25 use the credits, or transfer all or a portion of

1 the credits to another person, for the purpose
2 of complying with paragraph (2).

3 “(C) LIFE OF CREDITS.—A credit gen-
4 erated under this paragraph shall be valid to
5 show compliance:

6 (i) in the calendar year in which the
7 credit was generated or the next calendar
8 year, or

9 (ii) in the calendar year in which the
10 credit was generated or next two consecu-
11 tive calendar years if the Administrator
12 promulgates regulations under paragraph
13 (6).

14 “(D) INABILITY TO PURCHASE SUFFICIENT
15 CREDITS.—The regulations promulgated to
16 carry out this subsection shall include provi-
17 sions allowing any person that is unable to gen-
18 erate or purchase sufficient credits to meet the
19 requirements under paragraph (2) to carry for-
20 ward a renewables deficit provided that, in the
21 calendar year following the year in which the
22 renewables deficit is created, such person shall
23 achieve compliance with the renewables require-
24 ment under paragraph (2), and shall generate

1 or purchase additional renewables credits to off-
2 set the renewables deficit of the previous year.

3 “(6) SEASONAL VARIATIONS IN RENEWABLE
4 FUEL USE.—

5 “(A) STUDY.—For each of calendar years
6 2005 through 2015, the Administrator of the
7 Energy Information Administration, shall con-
8 duct a study of renewable fuels blending to de-
9 termine whether there are excessive seasonal
10 variations in the use of renewable fuels.

11 “(B) REGULATION OF EXCESSIVE SEA-
12 SONAL VARIATIONS.—If, for any calendar year,
13 the Administrator of the Energy Information
14 Administration, based on the study under sub-
15 paragraph (A), makes the determinations speci-
16 fied in subparagraph (C), the Administrator
17 shall promulgate regulations to ensure that 35
18 percent or more of the quantity of renewable
19 fuels necessary to meet the requirement of
20 paragraph (2) is used during each of the peri-
21 ods specified in subparagraph (D) of each sub-
22 sequent calendar year.

23 “(C) DETERMINATIONS.—The determina-
24 tions referred to in subparagraph (B) are
25 that—

1 “(i) less than 35 percent of the quan-
2 tity of renewable fuels necessary to meet
3 the requirement of paragraph (2) has been
4 used during one of the periods specified in
5 subparagraph (D) of the calendar year;

6 “(ii) a pattern of excessive seasonal
7 variation described in clause (i) will con-
8 tinue in subsequent calendar years; and

9 “(iii) promulgating regulations or
10 other requirements to impose a 35% or
11 more seasonal use of renewable fuels will
12 not prevent or interfere with the attain-
13 ment of national ambient air quality stand-
14 ards or significantly increase the price of
15 motor fuels to the consumer.

16 “(D) PERIODS.—The two periods referred
17 to in this paragraph are—

18 “(i) April through September; and

19 “(ii) January through March and Oc-
20 tober through December.

21 “(E) EXCLUSIONS.—Renewable fuels
22 blended or consumed in 2005 in a State which
23 has received a waiver under section 209(b) shall
24 not be included in the study in subparagraph
25 (A).

1 “(7) WAIVERS.—

2 “(A) IN GENERAL.—The Administrator, in
3 consultation with the Secretary of Agriculture
4 and the Secretary of Energy, may waive the re-
5 quirement of paragraph (2) in whole or in part
6 on petition by one or more States by reducing
7 the national quantity of renewable fuel required
8 under this subsection—

9 “(i) based on a determination by the
10 Administrator, after public notice and op-
11 portunity for comment, that implementa-
12 tion of the requirement would have a sig-
13 nificant and meaningful adverse impact on
14 the economy or environment of a State, a
15 region, or the United States, or will pre-
16 vent or interfere with the attainment of a
17 national ambient air quality standard in
18 any area of a State that is not addressed
19 by paragraph (5) of subsection (h); or

20 “(ii) based on a determination by the
21 Administrator, after public notice and op-
22 portunity for comment, that there is an in-
23 adequate domestic supply or distribution
24 capacity to meet the requirement.

1 “(B) PETITIONS FOR WAIVERS.—The Ad-
2 ministrator, in consultation with the Secretary
3 of Agriculture and the Secretary of Energy,
4 shall approve or disapprove a State petition for
5 a waiver of the requirement of paragraph (2)
6 within 90 days after the date on which the peti-
7 tion is received by the Administrator. If the Ad-
8 ministrator does not act to approve or dis-
9 approve a State petition for a waiver within 90
10 days, the Administrator shall publish a notice
11 setting forth the reasons for not acting within
12 the required 90-day period.

13 “(C) TERMINATION OF WAIVERS.—A waiv-
14 er granted under subparagraph (A) shall termi-
15 nate after 1 year, but may be renewed by the
16 Administrator after consultation with the Sec-
17 retary of Agriculture and the Secretary of En-
18 ergy.

19 “(8) STUDY AND WAIVER FOR INITIAL YEAR OF
20 PROGRAM.—Not later than 180 days from enact-
21 ment, the Secretary of Energy shall complete for the
22 Administrator a study assessing whether the renew-
23 able fuels requirement under paragraph (2) will like-
24 ly result in significant adverse consumer impacts in
25 2005, on a national, regional or State basis. Such

1 study shall evaluate renewable fuel supplies and
2 prices, blendstock supplies, and supply and distribu-
3 tion system capabilities. Based on such study, the
4 Secretary shall make specific recommendations to
5 the Administrator regarding waiver of the require-
6 ments of paragraph (2), in whole or in part, to avoid
7 any such adverse impacts. Within 270 days from en-
8 actment, the Administrator shall, consistent with the
9 recommendations of the Secretary waive, in whole or
10 in part, the renewable fuels requirement under para-
11 graph (2) by reducing the national quantity of re-
12 newable fuel required under this subsection in 2005.
13 This provision shall not be interpreted as limiting
14 the Administrator's authority to waive the require-
15 ments of paragraph (2) in whole, or in part, under
16 paragraph (7) or paragraph (9), pertaining to waiv-
17 ers.

18 “(9) ASSESSMENT AND WAIVER.—The Sec-
19 retary of Energy, in consultation with the Adminis-
20 trator of the Environmental Protection Agency and
21 the Secretary of Agriculture on his own motion, or
22 upon petition of any State shall evaluate the require-
23 ment of paragraph (2) and determine, prior to Janu-
24 ary 1, 2007, or prior to January 1 of any subse-
25 quent year in which the applicable volume of renew-

1 able fuel is increased under paragraph (2)(B),
2 whether the requirement of paragraph (2), including
3 the applicable volume of renewable fuel contained in
4 paragraph (2)(B) should remain in effect, in whole
5 or in part, during 2007 or any year or years subse-
6 quent to 2007. In evaluating the requirement of
7 paragraph (2) and in making any determination
8 under this section, the Secretary shall consider the
9 best available information and data collected by ac-
10 cepted methods or best available means regarding—

11 “(A) the capacity of renewable fuel pro-
12 ducers to supply an adequate amount of renew-
13 able fuel at competitive prices to fulfill the re-
14 quirement in paragraph (2);

15 “(B) the potential of the requirement in
16 paragraph (2) to significantly raise the price of
17 gasoline, food or heating oil for consumers in
18 any significant area or region of the country
19 above the price that would otherwise apply to
20 such commodities in the absence of the require-
21 ment;

22 “(C) the potential of the requirement in
23 paragraph (2) to interfere with the supply of
24 fuel in any significant gasoline market or region
25 of the country, including interference with the

1 efficient operation of refiners, blenders, import-
2 ers, wholesale suppliers, and retail vendors of
3 gasoline, and other motor fuels; and

4 “(D) the potential of the requirement to
5 cause or promote exceedences of Federal, State,
6 or local air quality standards.

7 If the Secretary determines, after public notice and
8 the opportunity for comment, that the requirement
9 of paragraph (2) would have significant and mean-
10 ingful adverse impact on the supply of fuel and re-
11 lated infrastructure or on the economy, environment,
12 public health or environment of any significant area
13 or region of the country, the Secretary may waive,
14 in whole or in part, the requirement of paragraph
15 (2) in any one year or period of years as well as re-
16 duce the applicable volume of renewable fuel con-
17 tained in paragraph (2)(B) in any one year or period
18 of years.

19 “(10) SMALL REFINERIES.—

20 “(A) IN GENERAL.—The requirement of
21 paragraph (2) shall not apply to small refineries
22 until the first calendar year beginning more
23 than 5 years after the first year set forth in the
24 table in paragraph (2)(B)(i). Not later than De-
25 cember 31, 2006, the Secretary of Energy shall

1 complete for the Administrator a study to de-
2 termine whether the requirement of paragraph
3 (2) would impose a disproportionate economic
4 hardship on small refineries. For any small re-
5 finery that the Secretary of Energy determines
6 would experience a disproportionate economic
7 hardship, the Administrator shall extend the
8 small refinery exemption for such small refinery
9 for no less than two additional years.

10 “(B) ECONOMIC HARDSHIP.—

11 “(i) EXTENSION OF EXEMPTION.—A
12 small refinery may at any time petition the
13 Administrator for an extension of the ex-
14 emption from the requirement of para-
15 graph (2) for the reason of dispropor-
16 tionate economic hardship. In evaluating a
17 hardship petition, the Administrator, in
18 consultation with the Secretary of Energy,
19 shall consider the findings of the study in
20 addition to other economic factors.

21 “(ii) DEADLINE FOR ACTION ON PETI-
22 TIONS.—The Administrator shall act on
23 any petition submitted by a small refinery
24 for a hardship exemption not later than 90
25 days after the receipt of the petition.

1 “(C) CREDIT PROGRAM.—If a small refin-
2 ery notifies the Administrator that it waives the
3 exemption provided by this Act, the regulations
4 shall provide for the generation of credits by
5 the small refinery beginning in the year fol-
6 lowing such notification.

7 “(D) OPT-IN FOR SMALL REFINERS.—A
8 small refinery shall be subject to the require-
9 ments of this section if it notifies the Adminis-
10 trator that it waives the exemption under sub-
11 paragraph (A).”.

12 (b) PENALTIES AND ENFORCEMENT.—Section
13 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is
14 amended—

15 (1) in paragraph (1)—

16 (A) in the first sentence, by striking “or
17 (n)” each place it appears and inserting “(n) or
18 (o)”; and

19 (B) in the second sentence, by striking “or
20 (m)” and inserting “(m), or (o)”; and

21 (2) in the first sentence of paragraph (2), by
22 striking “and (n)” each place it appears and insert-
23 ing “(n), and (o)”.

24 (c) SURVEY OF RENEWABLE FUEL MARKET.—

1 (1) SURVEY AND REPORT.—Not later than De-
2 cember 1, 2006, and annually thereafter, the Admin-
3 istrator of the Environmental Protection Agency (in
4 consultation with the Secretary of Energy acting
5 through the Administrator of the Energy Informa-
6 tion Administration) shall—

7 (A) conduct, with respect to each conven-
8 tional gasoline use area and each reformulated
9 gasoline use area in each State, a survey to de-
10 termine the market shares of—

11 (i) conventional gasoline containing
12 ethanol;

13 (ii) reformulated gasoline containing
14 ethanol;

15 (iii) conventional gasoline containing
16 renewable fuel; and

17 (iv) reformulated gasoline containing
18 renewable fuel; and

19 (B) submit to Congress, and make publicly
20 available, a report on the results of the survey
21 under subparagraph (A).

22 (2) RECORDKEEPING AND REPORTING RE-
23 QUIREMENTS.—The Administrator may require any
24 refiner, blender, or importer to keep such records
25 and make such reports as are necessary to ensure

1 that the survey conducted under paragraph (1) is
2 accurate. The Administrator shall rely, to the extent
3 practicable, on existing reporting and recordkeeping
4 requirements to avoid duplicative requirements.

5 (3) APPLICABLE LAW.—Activities carried out
6 under this subsection shall be conducted in a man-
7 ner designed to protect confidentiality of individual
8 responses.

9 (4) CALCULATION OF MARKET SHARES.—Mar-
10 ket shares for conventional gasoline and reformu-
11 lated gasoline use areas will be calculated on a state-
12 wide basis using information collected under para-
13 graph (2) and other information available to the Ad-
14 ministrator. Market share information may be based
15 upon gasoline distribution patterns that include
16 multistate use areas.

17 **SEC. 9102. FUELS SAFE HARBOR.**

18 (a) IN GENERAL.—Notwithstanding any other provi-
19 sion of Federal or State law, no renewable fuel, as defined
20 by section 211(o)(1) of the Clean Air Act, or fuel con-
21 taining MTBE, used or intended to be used as a motor
22 vehicle fuel, nor any motor vehicle fuel containing such
23 renewable fuel or MTBE, shall be deemed defective in de-
24 sign or manufacture by virtue of the fact that it is, or
25 contains, such a renewable fuel or MTBE, if it does not

1 violate a control or prohibition imposed by the Adminis-
2 trator under section 211 of such Act, and the manufac-
3 turer is in compliance with all requests for information
4 under subsection (b) of such section 211(b) of the Clean
5 Air Act. If the safe harbor provided by this section does
6 not apply, the existence of a design defect or manufac-
7 turing defect shall be determined under otherwise applica-
8 ble law. Nothing in this paragraph shall be construed to
9 affect the liability of any person for environmental remedi-
10 ation costs, drinking water contamination, negligence,
11 public nuisance or any other liability other than liability
12 for a defect in design or manufacture of a motor vehicle
13 fuel.

14 (b) EFFECTIVE DATE.—This section shall be effec-
15 tive as of the date of enactment and shall apply with re-
16 spect to all claims filed on or after that date.

17 **SEC. 9103. FINDINGS AND MTBE TRANSITION ASSISTANCE.**

18 (a) FINDINGS.—Congress finds that—

19 (1) since 1979, methyl tertiary butyl ether (re-
20 ferred to in this section as “MTBE”) has been used
21 nationwide at low levels in gasoline to replace lead
22 as an octane booster or anti-knocking agent;

23 (2) Public Law 101–549 (commonly known as
24 the “Clean Air Act Amendments of 1990”) (42
25 U.S.C. 7401 et seq.) established a fuel oxygenate

1 standard under which reformulated gasoline must
2 contain at least 2 percent oxygen by weight;

3 (3) at the time of the adoption of the fuel oxy-
4 gen standard, Congress was aware that significant
5 use of MTBE would result from the adoption of that
6 standard, and that the use of MTBE would likely be
7 important to the cost-effective implementation of
8 that program;

9 (4) Congress was aware that gasoline and its
10 component additives can and do leak from storage
11 tanks;

12 (5) the fuel industry responded to the fuel oxy-
13 genate standard established by Public Law 101-549
14 by making substantial investments in—

15 (A) MTBE production capacity; and

16 (B) systems to deliver MTBE-containing
17 gasoline to the marketplace;

18 (6) Congress has—

19 (A) reconsidered the relative value of the
20 oxygenate requirement for reformulated gaso-
21 line; and

22 (B) decided to provide for the elimination
23 of the oxygenate requirement for reformulated
24 gasoline and to provide for a renewable content
25 requirement for motor fuel; and

1 (7) it is appropriate for Congress to provide
2 some limited transition assistance—

3 (A) to merchant producers of MTBE who
4 produced MTBE in response to a market cre-
5 ated by the oxygenate requirement contained in
6 the Clean Air Act; and

7 (B) for the purpose of mitigating any fuel
8 supply problems that may result from the elimi-
9 nation of the oxygenate requirement for refor-
10 mulated gasoline.

11 (b) PURPOSES.—The purpose of this section is to
12 provide assistance to merchant producers of MTBE in
13 making the transition from producing MTBE to producing
14 other fuel additives.

15 (c) MTBE MERCHANT PRODUCER CONVERSION AS-
16 SISTANCE.—Section 211(c) of the Clean Air Act (42
17 U.S.C. 7545(c)) is amended by adding at the end the fol-
18 lowing:

19 “(5) MTBE MERCHANT PRODUCER CONVER-
20 SION ASSISTANCE.—

21 “(A) IN GENERAL.—

22 “(i) GRANTS.—The Secretary of En-
23 ergy, in consultation with the Adminis-
24 trator, may make grants to merchant pro-
25 ducers of methyl tertiary butyl ether in the

1 United States to assist the producers in
2 the conversion of eligible production facili-
3 ties described in subparagraph (C) to the
4 production of iso-octane and alkylates.

5 “(ii) DETERMINATION.—The Admin-
6 istrator, in consultation with the Secretary
7 of Energy, may determine that transition
8 assistance for the production of iso-octane
9 and alkylates is inconsistent with the pro-
10 visions of subparagraph (B) and, on that
11 basis, may deny applications for grants au-
12 thorized by this provision.

13 “(B) FURTHER GRANTS.—The Secretary
14 of Energy, in consultation with the Adminis-
15 trator, may also further make grants to mer-
16 chant producers of MTBE in the United States
17 to assist the producers in the conversion of eli-
18 gible production facilities described in subpara-
19 graph (C) to the production of such other fuel
20 additives that, consistent with this subsection—

21 “(i) unless the Administrator deter-
22 mines that such fuel additives may reason-
23 ably be anticipated to endanger public
24 health or the environment;

1 “(ii) have been registered and have
2 been tested or are being tested in accord-
3 ance with the requirements of this section;
4 and

5 “(iii) will contribute to replacing gaso-
6 line volumes lost as a result of paragraph
7 (5).

8 “(C) ELIGIBLE PRODUCTION FACILI-
9 TIES.—A production facility shall be eligible to
10 receive a grant under this paragraph if the pro-
11 duction facility—

12 “(i) is located in the United States;
13 and

14 “(ii) produced methyl tertiary butyl
15 ether for consumption before April 1, 2003
16 and ceased production at any time after
17 the date of enactment.

18 “(D) AUTHORIZATION OF APPROPRIA-
19 TIONS.—There is authorized to be appropriated
20 to carry out this paragraph \$250,000,000 for
21 each of fiscal years 2004 through 2006, to re-
22 main available until expended.”.

23 (d) NO EFFECT ON LAW CONCERNING STATE AU-
24 THORITY.—The amendments made to the Clean Air Act
25 by this division have no effect on the law in effect on the

1 day before the date of enactment of this Act regarding
2 the authority of States to limit the use of methyl tertiary
3 butyl ether in motor vehicle fuel.

4 **SEC. 9104. ELIMINATION OF OXYGEN CONTENT REQUIRE-**
5 **MENT FOR REFORMULATED GASOLINE.**

6 (a) ELIMINATION.—

7 (1) IN GENERAL.—Section 211(k) of the Clean
8 Air Act (42 U.S.C. 7545(k)) is amended—

9 (A) in paragraph (2)—

10 (i) in the second sentence of subpara-
11 graph (A), by striking “(including the oxy-
12 gen content requirement contained in sub-
13 paragraph (B))”;

14 (ii) by striking subparagraph (B); and

15 (iii) by redesignating subparagraphs
16 (C) and (D) as subparagraphs (B) and
17 (C), respectively;

18 (B) in paragraph (3)(A), by striking clause

19 (v);

20 (C) in paragraph (7)—

21 (i) in subparagraph (A)—

22 (I) by striking clause (i); and

23 (II) by redesignating clauses (ii)

24 and (iii) as clauses (i) and (ii), respec-

25 tively; and

1 (ii) in subparagraph (C)—

2 (I) by striking clause (ii); and

3 (II) by redesignating clause (iii)

4 as clause (ii); and

5 (2) EFFECTIVE DATE.—The amendments made
6 by paragraph (1) take effect 270 days after the date
7 of enactment of this Act, except that such amend-
8 ments shall take effect upon enactment in any state
9 that has received a waiver under section 209(b) of
10 the Clean Air Act.

11 (b) MAINTENANCE OF TOXIC AIR POLLUTANT EMIS-
12 SION REDUCTIONS.—Section 211(k)(1) of the Clean Air
13 Act (42 U.S.C. 7545(k)(1)) is amended—

14 (1) by striking “Within 1 year after the enact-
15 ment of the Clean Air Act Amendments of 1990,”
16 and inserting the following:

17 “(A) IN GENERAL.—Not later than No-
18 vember 15, 1991,”; and

19 (2) by adding at the end the following:

20 “(B) MAINTENANCE OF TOXIC AIR POL-
21 LUTANT EMISSIONS REDUCTIONS FROM REFOR-
22 MULATED GASOLINE.—

23 “(i) DEFINITIONS.—In this subpara-
24 graph the term ‘PADD’ means a Petro-
25 leum Administration for Defense District.

1 “(ii) REGULATIONS REGARDING EMIS-
2 SIONS OF TOXIC AIR POLLUTANTS.—Not
3 later than 270 days after the date of en-
4 actment of this subparagraph the Adminis-
5 trator shall establish, for each refinery or
6 importer, standards for toxic air pollutants
7 from use of the reformulated gasoline pro-
8 duced or distributed by the refinery or im-
9 porter that maintain the reduction of the
10 average annual aggregate emissions of
11 toxic air pollutants for reformulated gaso-
12 line produced or distributed by the refinery
13 or importer during calendar years 1999
14 and 2000, determined on the basis of data
15 collected by the Administrator with respect
16 to the refinery or importer.

17 “(iii) STANDARDS APPLICABLE TO
18 SPECIFIC REFINERIES OR IMPORTERS.—

19 “(I) APPLICABILITY OF STAND-
20 ARDS.—For any calendar year, the
21 standards applicable to a refinery or
22 importer under clause (ii) shall apply
23 to the quantity of gasoline produced
24 or distributed by the refinery or im-
25 porter in the calendar year only to the

1 extent that the quantity is less than
2 or equal to the average annual quan-
3 tity of reformulated gasoline produced
4 or distributed by the refinery or im-
5 porter during calendar years 1999
6 and 2000.

7 “(II) APPLICABILITY OF OTHER
8 STANDARDS.—For any calendar year,
9 the quantity of gasoline produced or
10 distributed by a refinery or importer
11 that is in excess of the quantity sub-
12 ject to subclause (I) shall be subject
13 to standards for toxic air pollutants
14 promulgated under subparagraph (A)
15 and paragraph (3)(B).

16 “(iv) CREDIT PROGRAM.—The Admin-
17 istrator shall provide for the granting and
18 use of credits for emissions of toxic air pol-
19 lutants in the same manner as provided in
20 paragraph (7).

21 “(v) REGIONAL PROTECTION OF
22 TOXICS REDUCTION BASELINES.—

23 “(I) IN GENERAL.—Not later
24 than 60 days after the date of enact-
25 ment of this subparagraph, and not

1 later than April 1 of each calendar
2 year that begins after that date of en-
3 actment, the Administrator shall pub-
4 lish in the Federal Register a report
5 that specifies, with respect to the pre-
6 vious calendar year—

7 “(aa) the quantity of reformu-
8 lated gasoline produced that is
9 in excess of the average annual
10 quantity of reformulated gasoline
11 produced in 1999 and 2000; and

12 “(bb) the reduction of the
13 average annual aggregate emis-
14 sions of toxic air pollutants in
15 each PADD, based on retail sur-
16 vey data or data from other ap-
17 propriate sources.

18 “(II) EFFECT OF FAILURE TO
19 MAINTAIN AGGREGATE TOXICS RE-
20 Ductions.—If, in any calendar year,
21 the reduction of the average annual
22 aggregate emissions of toxic air pol-
23 lutants in a PADD fails to meet or
24 exceed the reduction of the average
25 annual aggregate emissions of toxic

1 air pollutants in the PADD in cal-
2 endar years 1999 and 2000, the Ad-
3 ministrator, not later than 90 days
4 after the date of publication of the re-
5 port for the calendar year under sub-
6 clause (I), shall—

7 “(aa) identify, to the max-
8 imum extent practicable, the rea-
9 sons for the failure, including the
10 sources, volumes, and character-
11 istics of reformulated gasoline
12 that contributed to the failure;
13 and

14 “(bb) promulgate revisions
15 to the regulations promulgated
16 under clause (ii), to take effect
17 not earlier than 180 days but not
18 later than 270 days after the
19 date of promulgation, to provide
20 that, notwithstanding clause
21 (iii)(II), all reformulated gasoline
22 produced or distributed at each
23 refinery or importer shall meet
24 the standards applicable under
25 clause (ii) not later than April 1

1 of the year following the report
2 in subclause (II) and for subse-
3 quent years.

4 “(vi) REGULATIONS TO CONTROL
5 HAZARDOUS AIR POLLUTANTS FROM
6 MOTOR VEHICLES AND MOTOR VEHICLE
7 FUELS.—Not later than July 1, 2004, the
8 Administrator shall promulgate final regu-
9 lations to control hazardous air pollutants
10 from motor vehicles and motor vehicle
11 fuels, as provided for in section 80.1045 of
12 title 40, Code of Federal Regulations (as
13 in effect on the date of enactment of this
14 subparagraph).”.

15 (c) CONSOLIDATION IN REFORMULATED GASOLINE
16 REGULATIONS.—Not later than 180 days after the date
17 of enactment of this Act, the Administrator shall revise
18 the reformulated gasoline regulations under subpart D of
19 part 80 of title 40, Code of Federal Regulations, to con-
20 solidate the regulations applicable to VOC-Control Re-
21 gions 1 and 2 under section 80.41 of that title by elimi-
22 nating the less stringent requirements applicable to gaso-
23 line designated for VOC-Control Region 2 and instead ap-
24 plying the more stringent requirements applicable to gaso-
25 line designated for VOC-Control Region 1.

1 (d) SAVINGS CLAUSE.—Nothing in this section is in-
2 tended to affect or prejudice either any legal claims or ac-
3 tions with respect to regulations promulgated by the Ad-
4 ministrator prior to enactment of this Act regarding emis-
5 sions of toxic air pollutants from motor vehicles or the
6 adjustment of standards applicable to a specific refinery
7 or importer made under such prior regulations and the
8 Administrator may apply such adjustments to the stand-
9 ards applicable to such refinery or importer under clause
10 (iii)(I) of section 211(k)(1)(B) of the Clean Air Act, ex-
11 cept that—

12 (1) the Administrator shall revise such adjust-
13 ments to be based only on calendar years 1999–
14 2000, and

15 (2) for adjustments based on toxic air pollutant
16 emissions from reformulated gasoline significantly
17 below the national annual average emissions of toxic
18 air pollutants from all reformulated gasoline, the
19 Administrator may revise such adjustments to take
20 account of the scope of any lawful and enforceable
21 Federal or State prohibition on methyl tertiary butyl
22 ether imposed after the effective date of the enact-
23 ment of this paragraph, except that any such adjust-
24 ment shall require such refiner or importer, to the
25 greatest extent practicable, to maintain the reduc-

1 tion achieved during calendar year 1999–2000 in the
2 average annual aggregate emissions of toxic air pol-
3 lutants from reformulated gasoline produced or dis-
4 tributed by the refinery or importer. Any such ad-
5 justment shall not be made at a level below the aver-
6 age percentage of reductions of emissions of toxic air
7 pollutants for reformulated gasoline supplied to
8 PADD I during calendar years 1999–2000.

9 **SEC. 9105. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.**

10 Section 211 of the Clean Air Act (42 U.S.C. 7545)
11 is amended by inserting after subsection (o) the following:

12 “(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES
13 AND EMISSIONS MODEL.—

14 “(1) ANTI-BACKSLIDING ANALYSIS.—

15 “(A) DRAFT ANALYSIS.—Not later than 4
16 years after the date of enactment of this para-
17 graph, the Administrator shall publish for pub-
18 lic comment a draft analysis of the changes in
19 emissions of air pollutants and air quality due
20 to the use of motor vehicle fuel and fuel addi-
21 tives resulting from implementation of the
22 amendments made by title IX of the Energy
23 Policy Act of 2003.

24 “(B) FINAL ANALYSIS.—After providing a
25 reasonable opportunity for comment but not

1 later than 5 years after the date of enactment
2 of this paragraph, the Administrator shall pub-
3 lish the analysis in final form.

4 “(2) EMISSIONS MODEL.—For the purposes of
5 this subsection, as soon as the necessary data are
6 available, the Administrator shall develop and final-
7 ize an emissions model that reasonably reflects the
8 effects of gasoline characteristics or components on
9 emissions from vehicles in the motor vehicle fleet
10 during calendar year 2005.”.

11 **SEC. 9106. DATA COLLECTION.**

12 Section 205 of the Department of Energy Organiza-
13 tion Act (42 U.S.C. 7135) is amended by adding at the
14 end the following:

15 “(m) RENEWABLE FUELS SURVEY.—(1) In order to
16 improve the ability to evaluate the effectiveness of the Na-
17 tion’s renewable fuels mandate, the Administrator shall
18 conduct and publish the results of a survey of renewable
19 fuels demand in the motor vehicle fuels market in the
20 United States monthly, and in a manner designed to pro-
21 tect the confidentiality of individual responses. In con-
22 ducting the survey, the Administrator shall collect infor-
23 mation both on a national and regional basis, including—

24 “(A) the quantity of renewable fuels produced;

25 “(B) the quantity of renewable fuels blended;

1 “(C) the quantity of renewable fuels imported;
2 “(D) the quantity of renewable fuels demanded;
3 “(E) market price data; and
4 “(F) such other analyses or evaluations as the
5 Administrator finds is necessary to achieve the pur-
6 poses of this section.

7 “(2) The Administrator shall also collect or estimate
8 information both on a national and regional basis, pursu-
9 ant to subparagraphs (A) through (F) of paragraph (1),
10 for the five years prior to implementation of this sub-
11 section.

12 “(3) This subsection does not affect the authority of
13 the Administrator to collect data under section 52 of the
14 Federal Energy Administration Act of 1974 (15 U.S.C.
15 790a).”.

16 **SEC. 9107. FUEL SYSTEM REQUIREMENTS HARMONIZATION**
17 **STUDY.**

18 (a) STUDY.—

19 (1) IN GENERAL.—The Administrator of the
20 Environmental Protection Agency and the Secretary
21 of Energy shall jointly conduct a study of Federal,
22 State, and local requirements concerning motor vehi-
23 cle fuels, including—

1 (A) requirements relating to reformulated
2 gasoline, volatility (measured in Reid vapor
3 pressure), oxygenated fuel, and diesel fuel; and

4 (B) other requirements that vary from
5 State to State, region to region, or locality to
6 locality.

7 (2) REQUIRED ELEMENTS.—The study shall
8 assess—

9 (A) the effect of the variety of require-
10 ments described in paragraph (1) on the supply,
11 quality, and price of motor vehicle fuels avail-
12 able to consumers in various States and local-
13 ities;

14 (B) the effect of the requirements de-
15 scribed in paragraph (1) on achievement of—

16 (i) national, regional, and local air
17 quality standards and goals; and

18 (ii) related environmental and public
19 health protection standards and goals;

20 (C) the effect of Federal, State, and local
21 motor vehicle fuel regulations, including mul-
22 tiple motor vehicle fuel requirements, on—

23 (i) domestic refineries;

24 (ii) the fuel distribution system; and

1 (iii) industry investment in new capac-
2 ity;

3 (D) the effect of the requirements de-
4 scribed in paragraph (1) on emissions from ve-
5 hicles, refineries, and fuel handling facilities;

6 (E) the feasibility of developing national or
7 regional motor vehicle fuel slates for the 48
8 contiguous States that, while improving air
9 quality at the national, regional and local levels
10 consistent with the attainment of national am-
11 bient air quality standards, could—

12 (i) enhance flexibility in the fuel dis-
13 tribution infrastructure and improve fuel
14 fungibility;

15 (ii) reduce price volatility and costs to
16 consumers and producers;

17 (iii) provide increased liquidity to the
18 gasoline market; and

19 (iv) enhance fuel quality, consistency,
20 and supply;

21 (F) the feasibility of providing incentives,
22 to promote cleaner burning motor vehicle fuel;
23 and

24 (G) the extent to which improvements in
25 air quality and any increases or decreases in

1 the price of motor fuel can be projected to re-
2 sult from the Environmental Protection Agen-
3 cy's Tier II requirements for conventional gaso-
4 line and vehicle emission systems, the reformu-
5 lated gasoline program, the renewable content
6 requirements established by this subtitle, State
7 programs regarding gasoline volatility, and any
8 other requirements imposed by States or local-
9 ities affecting the composition of motor fuel.

10 (b) REPORT.—

11 (1) IN GENERAL.—Not later than December 31,
12 2006, the Administrator of the Environmental Pro-
13 tection Agency and the Secretary of Energy shall
14 submit to Congress a report on the results of the
15 study conducted under subsection (a).

16 (2) RECOMMENDATIONS.—

17 (A) IN GENERAL.—The report shall con-
18 tain recommendations for legislative and admin-
19 istrative actions that may be taken—

- 20 (i) to improve air quality;
21 (ii) to reduce costs to consumers and
22 producers; and
23 (iii) to increase supply liquidity.

24 (B) REQUIRED CONSIDERATIONS.—The
25 recommendations under subparagraph (A) shall

1 take into account the need to provide advance
2 notice of required modifications to refinery and
3 fuel distribution systems in order to ensure an
4 adequate supply of motor vehicle fuel in all
5 States.

6 (3) CONSULTATION.—In developing the report,
7 the Administrator of the Environmental Protection
8 Agency and the Secretary of Energy shall consult
9 with—

10 (A) the Governors of the States;

11 (B) automobile manufacturers;

12 (C) motor vehicle fuel producers and dis-
13 tributors; and

14 (D) the public.